

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CARL HIGBIE, JOSEPH HARRIS, and MICHAEL
VORTUBA,

Plaintiffs,

-against-

ANSWER

1:24-CV-0174

(MAD/TWD)

STEVEN G. JAMES, in his Official Capacity as
Superintendent of the New York State Police, SHERIFF
KYLE BOURGAULT, in his Official Capacity as the
Sheriff of Rensselaer County, New York, SHERIFF
DONALD J. KRAPF, in his Official Capacity as the
Sheriff of Columbia County, New York, and JOHN
DOES 1-10,

Defendants.

Defendant SHERIFF KYLE BOURGAULT, in his Official Capacity as the Sheriff of Rensselaer County, New York (“Sheriff Bourgault”), by his attorney, CARL J. KEMPF III, County Attorney for the County of Rensselaer, answers the Complaint for Declaratory and Injunctive Relief (ECF No. 1) (“Complaint”) as follows:

1. Paragraph “1” of the Complaint purports to state a legal conclusion to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein.

2. Paragraph “2” of the Complaint purports to state the holding and interpretation of the cases cited therein, to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers to the cited cases for a full and accurate understanding of its holdings and effect.

3. Paragraph “3” of the Complaint purports to state a legal conclusion to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein.

4. Paragraph “4” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein.

5. Paragraph “5” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein.

6. Paragraph “6” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein.

7. Paragraph “7” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the legal cases cited therein for a full and accurate understanding of their holdings and effect.

8. Paragraph “8” of the Complaint purports to quote the case cited therein to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault

denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

9. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “9” of the Complaint and refers the Court to the statutes cited therein for a full and accurate understanding of its terms and effect.

10. Paragraph “10” of the Complaint purports to quote the case cited therein to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

11. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “11” of the Complaint.

12. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “12” of the Complaint.

13. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “13” of the Complaint.

14. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “14” of the Complaint.

15. Paragraph “15” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the relevant laws for a full and accurate understanding of their terms and effect.

16. Paragraph “16” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

17. Paragraph “17” of the Complaint purports to state discussions by the court in the case cited therein to which no response is required, and otherwise and to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

18. Paragraph “18” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained therein and refers the Court to the laws cited therein and applicable laws for a full and accurate understanding of their terms and effect.

19. With respect to paragraph “19” of the Complaint, Defendant Sheriff Bourgault: admits that he was listed as the point of contact for submission of license applications in the County and otherwise denies the remaining allegations, claims and statements in the first two sentences of paragraph “19” and refers the Court to the web address cited in footnote numbered 2 therein for a full and accurate understanding of its content and effect; refers the Court to the document referenced in sentence 3 of such paragraph; admits that he is the Sheriff of the County; and denies knowledge and/or information sufficient to form a belief of the remaining allegations, claims and

statements contained in sentence 4 of such paragraph; and denies the remaining allegations, claims and statements contained in such paragraph.

20. With respect to paragraph “20” of the Complaint, Defendant Sheriff Bourgault refers the Court to the web address cited in footnote numbered 3 therein for a full and accurate understanding of its content and effect and denies knowledge and/or information sufficient to form a belief as to the remaining allegations, claims and statements contained in such paragraph.

21. Paragraph “21” of the Complaint purports to quote the case cited therein to which no response is required and, to the extent that a response is required therefor, and with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

22. Paragraph “22” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained therein and refers the Court to applicable laws for a full and accurate understanding of their terms and effect.

23. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “23” of the Complaint.

24. Paragraph “24” of the Complaint purports to state the legal challenge under the Complaint to which no response is required, and, to the extent that a response to such statement is

required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein.

25. Paragraph “25” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable law for a full and accurate understanding of their holdings and effect.

26. Paragraph “26” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

27. Paragraph “27” of the Complaint purports to state a legal conclusion to which no response is required, and, to the extent that a response to such conclusion is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to applicable laws for a full and accurate understanding of their terms and effect.

28. Paragraph “28” of the Complaint purports to state a legal conclusion to which no response is required, and, to the extent that a response to such conclusion is required, Defendant Sheriff Bourgault admits that venue is proper in this District and denies the remaining allegations, claims and statements contained therein and refers the Court to applicable laws for a full and accurate understanding of their terms and effect.

29. Paragraph “29” of the Complaint purports to quote the Second Amendment to the U.S. Constitution to which no response is required, and, to the extent that a response to such quotation is required, as well as with respect to the remaining allegations, claims and statements

contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the law cited therein for a full and accurate understanding of its terms and effect.

30. Paragraph “30” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

31. Paragraph “31” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

32. Paragraph “32” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

33. Paragraph “33” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the

Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

34. Paragraph “34” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

35. Paragraph “35” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

36. Paragraph “36” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of their holdings and effect.

37. Paragraph “37” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

38. Paragraph “38” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

39. Paragraph “39” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

40. Paragraph “40” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

41. Paragraph “41” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the applicable cases referred to therein for a full and accurate understanding of their holding and effect.

42. Paragraph “42” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holding and effect.

43. Paragraph “43” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holding and effect.

44. Paragraph “44” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

45. Paragraph “45” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

46. Paragraph “46” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as

with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holding and effect.

47. Paragraph “47” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the laws and case cited therein for a full and accurate understanding of their terms, holding and effect.

48. Paragraph “48” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the applicable laws therein for a full and accurate understanding of their terms and effect.

49. Paragraph “49” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the law cited therein for a full and accurate understanding of its terms and effect.

50. Paragraph “50” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant

Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the applicable laws therein for a full and accurate understanding of their terms and effect.

51. Paragraph “51” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

52. Paragraph “52” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

53. Paragraph “53” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

54. Paragraph “54” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

55. Paragraph “55” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the applicable law therein for a full and accurate understanding of its terms and effect.

56. Paragraph “56” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

57. Paragraph “57” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

58. Paragraph “58” of the Complaint purports to state a legal conclusion to which no response is required, and, to the extent that a response to such conclusion is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

59. Paragraph “59” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as

with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the case cited therein and applicable law for a full and accurate understanding of their terms, holding and effect.

60. Paragraph “60” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

61. Paragraph “61” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, as well as with respect to the remaining allegations, claims and statements contained therein, Defendant Sheriff Bourgault denies such allegations, claims and statements contained therein and refers the Court to the applicable laws therein for a full and accurate understanding of terms and effect.

62. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “62” of the Complaint.

63. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “63” of the Complaint.

64. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “64” of the Complaint.

65. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “65” of the Complaint.

66. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “66” of the Complaint.

67. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “67” of the Complaint.

68. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “68” of the Complaint.

69. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “69” of the Complaint.

70. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “70” of the Complaint.

71. Paragraph “71” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the relevant laws and cited law for a full and accurate understanding of their terms and effect.

72. Paragraph “72” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the relevant laws for a full and accurate understanding of their terms and effect.

73. Paragraph “73” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the relevant laws for a full and accurate understanding of their terms and effect.

74. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “74” of the Complaint.

75. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “75” of the Complaint.

76. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “76” of the Complaint.

77. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “77” of the Complaint.

78. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “78” of the Complaint.

79. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “79” of the Complaint.

80. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “80” of the Complaint.

81. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “81” of the Complaint.

82. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “82” of the Complaint.

83. Paragraph “83” of the Complaint purports to state legal conclusions to which no response is required and, to the extent that a response is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the relevant laws for a full and accurate understanding of their terms and effect.

84. Paragraph “84” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, and otherwise with respect to the remaining allegations therein, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the relevant laws for a full and accurate understanding of their terms and effect.

85. Paragraph “85” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, and otherwise with respect to the remaining allegations therein, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the relevant laws for a full and accurate understanding of their terms and effect.

86. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “86” of the Complaint.

87. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “87” of the Complaint.

88. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “88” of the Complaint.

89. Defendant Sheriff Bourgault refers the Court to the case cited in paragraph “89” of the Complaint for a full and accurate understanding of its holding and effect and denies knowledge and/or information sufficient to form a belief as to the remaining allegations, claims and statements contained therein.

90. Defendant Sheriff Bourgault refers the Court to the case cited in paragraph “90” of the Complaint for a full and accurate understanding of its holding and effect and denies knowledge

and/or information sufficient to form a belief as to the remaining allegations, claims and statements contained therein.

91. Paragraph “91” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, and otherwise with respect to the remaining allegations therein, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the relevant laws for a full and accurate understanding of their terms and effect.

92. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “92” of the Complaint.

93. Paragraph “93” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, and otherwise with respect to the remaining allegations therein, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the relevant laws for a full and accurate understanding of their terms and effect.

94. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “94” of the Complaint.

95. Paragraph “95” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, and otherwise with respect to the remaining allegations therein, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

96. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “96” of the Complaint.

97. Defendant Sheriff Bourgault admits that he called and spoke with Plaintiff Votruba and otherwise denies the remaining allegations and statements contained in paragraph “97” of the Complaint.

98. Paragraph “98” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, and otherwise with respect to the remaining allegations therein, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

99. Paragraph “99” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, and otherwise with respect to the remaining allegations therein, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

100. Paragraph “100” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, and otherwise with respect to the remaining allegations therein, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

101. Paragraph “101” of the Complaint purports to quote the section of the U.S. Constitution cited therein to which no response is required and, to the extent that a response is

required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the section of the U.S. Constitution cited therein for a full and accurate understanding of its terms and effect.

102. Paragraph “102” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

103. Paragraph “103” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

104. Paragraph “104” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the statute cited therein for a full and accurate understanding of their terms and effect.

105. Paragraph “105” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the statute cited therein for a full and accurate understanding of their terms and effect.

106. Paragraph “106” of the Complaint purports to provide the web address for a document to which no response is required, and, to the extent that a response to such information is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained

therein and refers the Court to the web address therein for a full and accurate understanding of its content and effect.

107. Paragraph “107” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the statutes cited therein for a full and accurate understanding of their terms and effect.

108. Paragraph “108” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the U.S. Constitution amendment cited therein and applicable laws for a full and accurate understanding of their terms and effect.

109. Paragraph “109” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

110. Paragraph “110” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited and quoted for a full and accurate understanding of its holding and effect.

111. Paragraph “111” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant

Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

112. Paragraph “112” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited and quoted for a full and accurate understanding of its holding and effect.

113. In response to paragraph “113” of the Complaint, Defendant Sheriff Bourgault repeats, realleges and reiterates as if fully set forth herein in paragraphs “1” through “112” of this Answer.

114. Paragraph “114” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

115. Paragraph “115” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

116. Paragraph “116” of the Complaint purports to quote from the case cited therein to which no response is required, and, to the extent that a response to such quotation and citation is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

117. Paragraph “117” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable laws for a full and accurate understanding of their terms and effect.

118. Defendant Sheriff Bourgault denies knowledge and/or information sufficient to form a belief as to the allegations, claims and statements contained in paragraph “118” of the Complaint.

119. Paragraph “119” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the laws cited therein for a full and accurate understanding of their terms and effect.

120. Paragraph “120” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the statute cited therein for a full and accurate understanding of its terms and effect.

121. Paragraph “121” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the laws cited therein for a full and accurate understanding of their terms and effect.

122. In response to paragraph “122” of the Complaint, Defendant Sheriff Bourgault repeats, realleges and reiterates as if fully set forth herein in paragraphs “1” through “121” of this Answer.

123. Paragraph “123” of the Complaint purports to quote from the U.S. Constitution section and the case cited therein, as well as state legal conclusions, to which no response is required, and, to the extent that a response to such quotation, citation, and statement therein is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the U.S. Constitution section and the case cited therein for a full and accurate understanding of their terms, content, holding and effect.

124. Paragraph “124” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

125. Paragraph “125” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the applicable policy and laws for a full and accurate understanding of their terms and effect.

126. Paragraph “126” of the Complaint purports to quote from the case cited therein, as well as state legal conclusions, to which no response is required, and, to the extent that a response to such quotation, citation, and statement therein is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

127. Paragraph “127” of the Complaint purports to quote from the case cited therein, to which no response is required, and, to the extent that a response to such quotation, citation, and

statement therein is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

128. Paragraph “128” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case referenced therein for a full and accurate understanding of its holding and effect.

129. Paragraph “129” of the Complaint purports to quote from the case cited therein, as well as state legal conclusions, to which no response is required, and, to the extent that a response to such quotation, citation, and statement therein is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

130. Paragraph “130” of the Complaint purports to quote from the cases cited therein, as well as state legal conclusions, to which no response is required, and, to the extent that a response to such quotations, citations, and statements therein is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

131. Paragraph “131” of the Complaint purports to quote from the case cited therein, as well as state legal conclusions, to which no response is required, and, to the extent that a response to such quotation, citation, and statements therein is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

132. Paragraph “132” of the Complaint purports to quote from the case cited therein, as well as state legal conclusions, to which no response is required, and, to the extent that a response to such quotation, citations, and statements therein is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the cases cited therein for a full and accurate understanding of their holdings and effect.

133. Paragraph “133” of the Complaint purports to state legal conclusions to which no response is required, and, to the extent that a response to such conclusions is required, Defendant Sheriff Bourgault denies the allegations, claims and statements contained therein and refers the Court to the case cited therein for a full and accurate understanding of its holding and effect.

134. The Prayer for Relief of the Complaint purports to request the stated relief to which no response is required, and, to the extent that a response to such requested relief is required, Defendant Sheriff Bourgault denies that Plaintiffs are entitled to any of the relief requested in paragraphs “7” and “8” therein, as to Defendant Sheriff Bourgault, and, with respect to the remaining requested relief, neither admits or denies that Plaintiffs are entitled to any such relief and refers the Court to the applicable law for a full and accurate understanding of its terms, holding and effect.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

1. The causes of action alleged fail to state a claim upon which relief may be granted against Defendant Sheriff Bourgault.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

2. The claims are barred, in whole or in part, because Defendant Sheriff Bourgault at all times acted in good faith.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

3. If Plaintiffs suffered any nominal or other damages as alleged in the Complaint, then said damages were not caused by the culpable conduct, if any, on the part of Defendant Sheriff Bourgault or his agents, servants or employees, but rather they were caused solely by the culpable conduct of Plaintiffs and/or third parties over whom the answering Defendant had no control, knowledge or legal responsibility.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

4. The Court lacks subject matter jurisdiction to hear claims against Defendant Sheriff Bourgault.

WHEREFORE, Defendant Sheriff Bourgault demands judgment dismissing the Complaint of the Plaintiffs as against Sheriff Bourgault with prejudice, together with the costs and disbursements of this action, and for such other and further relief in favor of Defendant Sheriff Bourgault as to the Court seems just and proper.

Dated: East Greenbush, New York
April 3, 2024

Carl J. Kempf III
County Attorney
County of Rensselaer
Attorney for Defendant Sheriff Kyle Bourgault
Rensselaer County Office Building
East Greenbush, New York 12061

By: s/
Carl J. Kempf III
County Attorney
Bar Roll No. 700352
Telephone: (518) 270-2968
Email: ckempf@rensco.com

TO: All attorneys of
record (*via ECF*)